

# THE WATCHDOG

A Periodic Newsletter from  
The Office of the United States Trustee - Region 16

April 15, 2002  
Issue No. 9

This issue of The Watchdog reflects the ever-increasing array of civil actions we have brought recently to fight fraud and abuse in bankruptcy. Due to length considerations, we have reported on just some of our activities in this area. Now that all debtors are required to present personal identification and proof of Social Security number at the first meetings of creditors, and we have increased our review of chapter 7 schedules for substantial abuse, there is much closer scrutiny of the petition and schedules in consumer cases. While the enforcement actions in this issue will instruct counsel on what not to do, I also hope that the continuing education programs and the tips from "Sherlock" will provide guidance to counsel in the practice of bankruptcy law.

I am extremely grateful to those counsel and trustees who have provided assistance and advice on all of our programs and procedures. Your expertise and input help us tremendously.

*Maureen A. Tighe*  
United States Trustee

## DEBTOR I.D. INITIATIVE

The trustees in Region 16 began reviewing evidence of Social Security numbers for all debtors on February 18, 2002. Some of the more interesting cases on just the first day that these numbers were checked follow.

→ A debtor presented to the trustee at the meeting of creditors a suspicious SS card containing obvious signs of white-out over the number and different type settings, clearly indicating alterations. A subsequent investigation

showed the SS number does not belong to the debtor.

→ In a second matter, a co-debtor stated on his Petition he did not have a SS number, he had applied for one, and he would produce the number later. When the trustee asked how he obtained his credit cards without providing creditors with any evidence of a SS number, he admitted that he was using someone else's number to apply for credit. He had incurred significant debt under this person's SS number. Upon further questioning by the trustee, the debtor asserted the 5<sup>th</sup> Amendment privilege against self-incrimination.

→ On a previously continued matter, the pro per debtor filed her third case in which she switched her name and changed one digit in her SS number to avoid a prior court order. In 1997, with the assistance of bankruptcy counsel, she filed a bankruptcy case using a hyphenated last name and subsequently received a discharge. She then filed a chapter 13 bankruptcy case in August 2001 with the same name and SS number. The case was converted to a chapter 7 and was ultimately dismissed with a 180-day restriction against re-filing. During December 2001, she filed the third bankruptcy case, this time removing the hyphen in her name and changing the 7<sup>th</sup> digit in her SS number so that her 180-day bar against re-filing could not be picked up by the Clerk's Office. She was assigned to a different judge in each case.

Actions addressing each of these abuses are being initiated as a result of the I.D. Initiative.

## ATTORNEY DISCIPLINE

### Riverside

Special appearance counsel did not show for a meeting of creditors. On February 26, 2002, the Court granted our motion to reduce attorney's fees. Judge Naugle imposed the disgorgement order jointly and severally between the attorney of record and special appearance counsel.

As part of her services, counsel for debtor agreed to appear at the first meeting of creditors but failed to do so. The UST filed a motion to reduce counsel's compensation but she failed to respond. On February 19, 2002, Judge Jury ordered her to return her full fee of \$500.

An attorney failed to appear with the debtors at the 341(a) meeting although the debtors had compensated him for this service. No response was filed to the motion to reduce attorney's fees but counsel appeared and argued against any reduction. Judge Barr granted a fee reduction from \$1,000 to \$500.

An attorney filed erroneous and unprofessional-looking schedules for a debtor which led to a motion to dismiss under 707(b) and a motion to reduce counsel's fees. The schedules referred to a "chapter 13 payment which would have funded a payment plan of 100%." Judge Goldberg dismissed the case and counsel promised, in lieu of a fee reduction, to serve as counsel of record in refiling the case, this time with accurate schedules.

### Santa Ana

In December 2001, the U.S. Trustee filed a Section 329 action for disgorgement against an attorney who failed to choose the appropriate exemptions which would have protected the equity in this elderly debtor's home. Counsel also did not appear at the first meeting of creditors. At the continued hearing on February 5, 2002, Judge Riddle sanctioned the attorney and ordered that he receive mentoring in chapter 7 bankruptcy practice.

On January 8, 2002, Judge Riddle sanctioned an attorney \$250 upon motion by the UST. The attorney had represented the debtor in a prior bankruptcy that was not disclosed in the current filing. The attorney took full responsibility for the failure to disclose the prior bankruptcy as required by the official bankruptcy forms and Local Bankruptcy Rule 1015-2.

In a chapter 7 bankruptcy case, debtors sought to discharge their debts. Despite representation by counsel, the debtors' schedules and statement of financial affairs were sloppy, contained inaccuracies, and failed to properly claim exemptions. To compound problems, based upon their schedules, it appeared that the debtors had sufficient excess income to fund a chapter 13 plan. At the hearing on the U.S. Trustee's motion for substantial abuse, Judge Barr not only granted the motion to dismiss but also awarded sanctions against debtors' counsel.

### Los Angeles

Judge Ahart granted the U.S. Trustee's motion to disgorge \$600 of the \$1,000 fee charged by debtor's counsel for failing to adequately limit the scope of his representation and sending a paralegal/interpreter, instead of counsel, to the 341(a) meeting of creditors. The attorney did not properly represent the client because he failed to appear at the meeting of creditors and filed an incomplete declaration limiting the scope of his services.

## CIVIL ENFORCEMENT ACTIONS

### FIRST ALLIANCE MORTGAGE CO.

Sub-prime lender First Alliance Mortgage Co. ("First Alliance"), and its related entities, have reached a tentative settlement providing for the creation of a \$95 million restitution fund for borrowers harmed by the company's alleged predatory lending practices. First Alliance and three related entities filed for Chapter 11 protection on March 23, 2000, in Orange County, California. The FTC will need to approve the proposed deal involving, among others, the Federal Trade Commission ("FTC"), California, and five other

states. Several lawsuits are involved, including a class action brought on behalf of the AARP. The bulk of the settlement funds will come from estate assets totaling about \$75 million with the remainder being provided by the company's founder, Brian Chisick. In January 2002, concerned by the large litigation fees being generated in the bankruptcy case (over \$2 million per month), the United States Trustee obtained an order providing for greater accountability in the fee procedures. Litigation against defendants including Lehman Brothers Commercial Paper, Chase Manhattan, Bank of New York, and others are not included in the tentative settlement.

### **Riverside**

⇒ Ingrid Mack failed to file a mandatory F.R.B.P. 1019 Report detailing her financial information with the Court after the U.S. Trustee moved to convert her case from a chapter 11 to a chapter 7. On February 19, 2002, Judge Naugle granted the U.S. Trustee's motion to compel the filing of the report and sanctioned the debtor and her counsel \$500 and held them jointly and severally liable.

### **San Fernando Valley**

(unless otherwise noted, handled by MaryAnne Wilsbacher, Trial Attorney, U.S. Trustee's Office)

⇒ Judge Lax dismissed the first of two chapter 11 cases filed by Ortal Real Estate & Management, Inc. based on the debtor's status as a suspended corporation which rendered the debtor ineligible for chapter 11 relief. Approximately one week after dismissal of the first case, the debtor filed the second bankruptcy case although the corporate status had not changed. Mark Goodfriend, debtor's counsel, and Dan Tepper, debtor's principal, signed the bankruptcy petition in each case. The Court granted the U.S. Trustee motion for a total of \$2,000 in sanctions for filing the second case in bad faith, \$1,000 of which is the liability of Mark Goodfriend and the remaining \$1,000 Goodfriend and Tepper are jointly and severally liable. (handled by S. Margaux Ross, Trial Attorney, Office of the U.S. Trustee)

⇒ Originally, the U.S. Trustee filed a complaint objecting to the debtor's discharge because the debtor received a discharge within six years prior to filing the current case. Rather than have her discharge denied, based on Judge Lax's order, the debtor agreed to have the case dismissed with a bar to refiling until the six years has lapsed. As part of the order dismissing the case with a bar, Judge Lax dismissed the 727 action without prejudice.

⇒ Judge Greenwald issued a decision in the Transpacific Enterprises bankruptcy case which granted the U.S. Trustee's motion to reconsider the employment of the debtor's general bankruptcy counsel, Pachulski, Stang, Ziehl, Young and Jones. The Pachulski firm was counsel to the debtor at the same time as one of its members was in partnership with the sole Director and President. The partnership leased office space to the debtor for \$23,500 per month. The employment application failed to disclose this business relationship. Judge Greenwald 1) vacated the order employing Pachulski, 2) ordered the disgorgement of the retainer of approximately \$125,000, and 3) denied Pachulski's request for interim compensation in the amount of \$149,942.33.

⇒ Judge Mund denied Robert Yaspan's employment application because he was not disinterested and because he failed to disclose his connections with the debtor, its owners, and the secured creditors of the estate. Yaspan had represented all sides in the formation of the debtor corporation. Yaspan appealed. On March 21, 2002, the Bankruptcy Appellate Panel (BAP) for the Ninth Circuit rendered its decision affirming Judge Mund's decision and requiring the disgorgement of the pre-petition retainer. As the BAP decision states, the "bankruptcy court acted well within its authority to decline to authorize employment under the circumstances." The BAP also pointed out that bankruptcy code provided for orders of disgorgement of fees to the extent they are excessive. The BAP agreed with the lower court that all services rendered in this case without proper employment were excessive.

## **Santa Ana**

⇒ In December 1998, Vision Capital Services filed for chapter 11 bankruptcy protection. The debtor was represented by Lobel & Opera. Within days after the filing, the State of California's Department of Corporations successfully moved for the appointment of a chapter 11 trustee based upon its ongoing investigation of the debtor's alleged Ponzi scheme. Jim Joseph was appointed the chapter 11 trustee and, after three years, he proposed and confirmed a plan of reorganization. Shortly thereafter, all the professionals employed in the case sought approval of their fees, including the Lobel & Opera firm which sought fees of \$220,00 in connection with the plan and disclosure statement. In support of its request, the Lobel & Opera firm argued that even though the plan and disclosure statement it drafted was not adopted by the chapter 11 trustee, it was still entitled to fees since the estate benefitted from its efforts. The U.S. Trustee objected to the fee request on the grounds that compensation is limited to those services which are "necessary to the administration of the estate." The chapter 11 trustee submitted a declaration to the Court which stated that, while the estate may have derived some benefit from the work product of Lobel & Opera, it was significantly less than the fee requested. The Court agreed and reduced the amount of fees awarded to \$75,000.

⇒ A case of identity theft occurred in a chapter 7 bankruptcy filing. The bankruptcy documents contained the victim's name and Social Security number but she claimed she never authorized the filing. In addition, she was unfamiliar with the scheduled assets and debts as well as the address listed as her residence. The fraudulent use of her identifying information caused the victim substantial difficulties, particularly with credit reporting agencies. The Orange County Sheriff's Department arrested a suspect in this case. In order to assist the victim, the U.S. Trustee filed a motion seeking to have the case reopened in order to revoke the discharge granted and to expunge all references to the case from the court docket and the court's automated

systems. The motion also sought to permanently seal the hard copy of the case file (other than to investigate bankruptcy crimes) in order to protect the victim's credit record and to preserve the evidence of the fraudulent filing for potential criminal prosecution of the perpetrator. The Court granted the relief requested.

⇒ In March 2001, John Joseph filed a chapter 11 bankruptcy. He indicated a high net worth in his schedules including a \$500,000 pension plan. He claimed an exemption for the entire amount of this plan, thus shielding these funds from his creditors. A recent case in the Ninth Circuit held that once the time limit to object to a claim of exemption has passed, the opportunity to object is not renewed if a trustee is appointed to the case. Thus, in order to preserve the ability to object to the claim of exemption, the U.S. Trustee entered into a stipulation with the debtor whereby the U.S. Trustee could object to the claim of exemption through plan confirmation. A few months later, a creditor did move for the appointment of a trustee and the Court granted the motion. Upon reviewing the pension plan, the trustee concluded this asset could be used to fund a plan of reorganization. Had the U.S. Trustee not preserved the ability to object to the claim of exemption the debtor would have successfully shielded this asset from his creditors and the chapter 11 trustee would not have been able to use assets from the pension plan to fund a plan of reorganization.

⇒ William David & Elenna Belikoff filed a chapter 7 petition on January 10, 2002. No prior filings were disclosed. It was discovered that the Belikoffs had received a discharge in a 1997 case. A motion was filed to dismiss the case with prejudice so that the Belikoffs could never discharge any debt existing as of the current filing. Several days prior to the hearing, the debtors filed a request for conversion to Chapter 13 which Judge Ryan granted. However, a review of the debtors' schedules, filed after the petition, indicated no income, expenses, or assets and \$55,428 of Schedule F debt. The U.S. Trustee requested the Court to leave the dismissal motion on calendar and filed an additional pleading requesting reconversion to Chapter 7 based on

"bad faith." On the eve of the hearing, the U.S. Trustee also determined that the debtors either owned unscheduled real property or transferred that real property within six months of the filing. Judge Ryan dismissed the case with prejudice.

### **Los Angeles**

→ On February 20, 2002, Judge Donovan, in the bankruptcy case of Propaganda Films, sustained the objection of the U.S. Trustee of a "pro per" appearance of an attorney on behalf of one of the members of the Official Committee of Unsecured Creditors. The U.S. Trustee argued that: 1) the arrangement circumvented the Bankruptcy Code requirement that counsel for a creditors' committee obtain Court approval for employment; 2) the Local Bankruptcy Rules limits pro per appearances to individuals on behalf of themselves except for certain limited circumstances that were not relevant to the matter before the Court; and, 3) the attorney-client privilege that existed between the committee member and the attorney may prevent the attorney from fully advising the other Committee members of any adverse interests. (handled by Russell Clementson, Trial Attorney)

## **SUBSTANTIAL ABUSE FILINGS**

### **San Fernando Valley**

(unless otherwise noted, handled by MaryAnne Wilsbacher, Trial Attorney, U.S. Trustee's Office)

→ On February 22, 2002, Judge Greenwald dismissed the case of Ruben Akopyan on the U.S. Trustee's motion for substantial abuse. The debtor incurred more than \$215,000 in credit card debt using 42 credit cards within the few years preceding his bankruptcy when his gross annual income was a maximum of \$10,000 per year. The debtor listed only \$2,400 in personal property on his petition.

→ Ruben and Evangelina Coquis filed a chapter 13 bankruptcy and confirmed a 100% plan showing in excess of \$2,100 in disposable

income on their bankruptcy documents. They filed essentially the same bankruptcy documents when they converted to a chapter 7. After the U.S. Trustee filed a motion to dismiss, the debtors filed amended schedules which lowered their net disposable income to approximately \$350 per month. The Court granted the U.S. Trustee's motion and determined the debtors had a minimum of \$1,000 in net disposable income to fund a chapter 13 plan. (handled by Margaux Ross, Trial Attorney, U.S. Trustee's Office)

→ On March 12, 2002, Judge Lax dismissed the case of Fatemeh Nassiri. The debtor had \$900 in disposable income per month at the time of filing the bankruptcy. With this income she could have paid 30% to 50% of her debts.

→ Judge Lax dismissed the bankruptcy case of Donna E. White. The U.S. Trustee had filed a complaint objecting to the debtor's discharge because she was granted a discharge within six years of the current filing. Rather than have her discharge denied, the debtor agreed to have the case dismissed with a bar to refiling until six years from her previous discharge has elapsed.

### **Santa Ana**

→ Karen V. Amabile sought to discharge \$188,000 of debt through bankruptcy. The debtor's schedules listed her net monthly income at \$7,780. Yet, she showed expenses of \$10,572 including a four-bedroom, 3,500 square-foot house in San Juan Capistrano with a monthly mortgage of \$4,500 as well as \$2,500 in rent for an apartment. After an evidentiary hearing, Judge Riddle found that the debtor could fund a chapter 13 plan if she surrendered her house. The case was dismissed.

→ Lorraine Austad filed a chapter 7 bankruptcy on the eve of the foreclosure of her home – which she valued at more than \$900,000. Ms. Austad had filed for chapter 13 relief on two other occasions since 1997, and her 88-year-old mother also filed for chapter 13 relief in 1998. Each case was filed to prevent foreclosure on real property owned by the debtor, and all of the prior cases

were dismissed. None of the previous filings were listed in the debtor's bankruptcy documents. In addition, the debtor omitted material information on her schedules, including a \$93,000 second trust deed on her home and rental income. Also, the debtor's monthly costs for mortgage and utility payments exceeded \$6,700. By reducing those costs to a reasonable level, the debtor could pay her unsecured claims of \$22,689 in less than one year. The U.S. Trustee filed a motion to dismiss based on the debtor's failure to disclose her previous bankruptcy filings and for substantial abuse. Judge Riddle dismissed the case and ordered a one-year bar to re-filing.

→ Marina Breda Kilcar filed a voluntary chapter 7 petition. Despite her modest income history, she incurred \$106,000 of credit card debt. According to her testimony at the meeting of creditors, the credit card debt was incurred to obtain cash advances for her boyfriend, take vacations, and purchase electronic goods which she sold for cash. The U.S. Trustee sought dismissal of this case for bad faith based on the debtor having no reasonable expectation of repaying this debt. Debtor's counsel stipulated to dismissal of the case.

→ Jillian Christine Paulson filed a voluntary Chapter 7 petition seeking to discharge approximately \$35,000 in unsecured debt. There were inconsistencies in the debtor's bankruptcy papers, e.g., the debtor's monthly expenses included payments for an auto and related insurance although no autos nor auto leases were scheduled. She also filed a Statement of Intention indicating that she was reaffirming a debt with Toyota Financial Services. The U.S. Trustee filed a motion to dismiss based on substantial abuse alleging that the debtor's income and expenses would allow her to pay 100% of her debts in 40 months. The errors in the debtor's bankruptcy papers were also referenced in the motion. Judge Alberts dismissed the case.

→ Debtors Paul and Christine Siguenza filed a chapter 7 bankruptcy seeking to discharge

\$29,478.64 of consumer debt. Based on their Schedules I and J, they had \$1,158 in monthly disposable income which would enable them to pay 100% of their creditors in 30 months. After the U.S. Trustee filed a substantial abuse motion, the debtors filed an amended Schedule J which increased their monthly expenses by \$1,645.73. The U.S. Trustee filed a supplement requesting dismissal and/or a monetary sanction. Testimony elicited at the hearing on April 3, 2002 indicated that the debtors had listed expenses pertaining to a home and a 2001 Chevy truck owned by Ms. Siguenza's father. Judge Ryan dismissed the case.

→ Kenneth and Cheryl Yenulonis filed for chapter 7 relief seeking to discharge more than \$45,000 in credit card debt while continuing to incur monthly expenses exceeding \$1,700 for the use of two vehicles, a 2001 Chevrolet Silverado truck and a 1998 Suburban, food costs of \$1,100 for a family of four, and \$200 for recreation. The Bankruptcy Court agreed and dismissed the case.

### Los Angeles

→ On March 28, 2002, Judge Zurzolo dismissed the chapter 7 bankruptcy case of Llewellyn Costales. The debtor filed her chapter 7 case indicating approximately \$32,565 in debt. She listed 23 unsecured creditors, mostly for credit card debt. Further investigation indicated that this accounting clerk and her husband, a lab technician, had excess income of \$974 per month, enough to repay their debts within 19 months.

→ Another case dismissed by Judge Zurzolo on March 28, 2002 was the chapter 7 bankruptcy case of Shanna Vaughan. The debtor, who works in the marketing department of a major department store, filed the chapter 7 bankruptcy case on December 3, 2001 with \$17,287 in credit card debts. Her current income and expense schedules reflect disposable income of \$448 per month. In addition, the debtor was making \$491.83 in monthly contributions to her profit sharing plan. In less than two years, the debtor could repay all her debt through a chapter 13 bankruptcy.

## CRIMINAL CASES

### Santa Barbara Man Charged with Fraud, Money Laundering in a \$600 Million Ponzi Scheme

**Reed Slatkin** was charged March 26, 2002 in federal court with 15 felony counts for orchestrating a massive Ponzi scheme in which he solicited more than \$593 million from approximately 800 investors over a 15-year period. Slatkin agreed to plead guilty to the charges, acknowledging that he is responsible for at least \$254 million in losses.

Slatkin was named in a criminal information that accuses him of five counts of mail fraud, three counts of wire fraud, six counts of money laundering, and one count of conspiracy to obstruct justice during an investigation being conducted by the Securities and Exchange Commission. In the plea agreement also filed today, Slatkin, 53, admits that he portrayed himself as a successful financial adviser and provided investors with account statements which purported to show that investors were achieving above-market returns on their investments. Instead of buying securities, as he told investors, he used the bulk of their funds to operate a Ponzi scheme in which he paid investors returns that were largely made up of funds from other investors. He also provided victims with false account statements showing fabricated returns.

Slatkin will be arraigned on the charges in the U.S. District Court in Los Angeles in April. He has agreed to surrender to federal custody at that time.

The case against Slatkin is the result of an investigation by the SEC, the FBI, and IRS - Criminal Investigation. AUSAs Jacqueline Chooljian and Steven J. Olson are handling the prosecution. Civil proceedings also continue with Judge Riblet and Trustee Todd



Nielson.

## SENTENCINGS

**Rosemarie Endara of A-Action Paralegals, a.k.a. Acciones Legals**, was charged with forging an attorney's name on at least 18 bankruptcies. On January 28, 2002, Judge Margaret Morrow sentenced Endara to four-months imprisonment, three-years probation, four-months home detention, and \$15,070 in restitution. (SAUSA Sandra Klein and FBI Special Agent Peter Norell)

On February 2, 2002, Judge Matz sentenced **Stephen Jeffrey Regen** to 12-months imprisonment and 3-years probation. Regen had filed multiple bankruptcies in order to stall foreclosure proceedings on his property, forged a judge's signature, and impersonated a federal officer or employee. (SAUSA Sandra Klein and FBI Special Agent Norma Ballard)

As a licensed real estate salesperson, **Sergio Romero** purchased approximately twenty properties in the names of straw owners, non-English speaking tenants and employees, and filed bankruptcies in their names in order to stay foreclosure proceedings. Romero also attempted to bribe one of his tenants by offering her \$7,000 if she agreed to sign a document stating that she had signed the bankruptcy petition and that she intended to complete the bankruptcy process. On March 20, 2002, Judge Taylor sentenced Romero to three-years probation, seven months of which he will serve in community confinement, a fine of \$2,000, and 100 hours of community service. The fine is in addition to the \$12,500 sanction Romero paid pursuant to a U.S. Trustee stipulation and a \$50,000 civil forfeiture. The department of Real Estate has revoked Romero's real estate license. (SAUSA Sandra Klein and FBI Special Agent Don Hutchinson)

Judge Collins sentenced **Gabriel Videla**, owner of **R.M. Envelopes & Printing Co.**, to three-years probation and restitution of \$18,450 on March 18, 2002. Videla created fraudulent invoices for



goods and services that his company never received. Based upon these fraudulent invoices, Videla then withdrew funds from the company's bank account for his personal use. (SAUSA Sandra Klein and FBI Special Agent Don Hutchinson)



**CONVICTS**

### Gregory

**Lynn Sampson** was charged with fraudulently filing a bankruptcy petition using his thirteen-year-old son's identifying information. On April 3, 2002, Sampson pleaded guilty to making a false statement in a bankruptcy. He is scheduled to be sentenced on June 24, 2001 before Judge Rafeedie. (SAUSA Sandy Klein and FBI Special Agent Peter Norell)

## The Honorable Lynne Riddle's Retirement

The United States Trustee's Office honored the Honorable Lynne Riddle, U.S. Bankruptcy Judge, Santa Ana, at a luncheon on March 28, 2002. Judge Riddle, who is retiring after 14 years on the bench, was also honored by the Southern California Bankruptcy community on April 2, 2002 at a dinner sponsored by the Orange County Bankruptcy Forum (OCBF). The 400 attendees made this the largest ever sponsored by the OCBF. We thank Judge Riddle for her many years of devoted service.

Here's the staff of the Santa Ana Office of the U.S. Trustee along with Judge Riddle (from left to right):

Nancy Shapiro, Terry Biers, Michael Hauser, Robin Betts, Dinah Grosch, Annette Sabol-Bernard, Darlene Brideau, Jesse Warren, Judge Riddle, Chris Chapman, Art Marquis, and Kristina Howard.

## UST Community Outreach and Education Programs

Save April 24, 2002

Chapter 11 Practice:

How to Comply with the  
U.S. Trustee's Requirements

The Beverly Hills Bar Association and the Office of the U.S. Trustee are co-sponsoring a seminar which will provide very useful insights for working in the chapter 11 bankruptcy arena.

Date: Wednesday, April 24, 2002  
Times: 6:00 p.m. registration/drinks  
6:45 p.m. dinner  
7:30 - 9 p.m. seminar  
Location: The Olympic Collection  
11301 Olympic Blvd., L.A.  
MCLE Credit: 1.5 hours  
More info: Myrna Richardson  
(310) 277-7400

## Monthly Continuing Education Programs for Consumer Debtor Attorneys

The Office of the U.S. Trustee continues its monthly education programs as follows (All programs at noon, 221 N. Figueroa Street, Los Angeles, in 341 meeting rooms):

### April 18, 2002

#### **Hot Topics in Chapter 13**

Speakers: Edwina Dowell, Nancy Curry, & Elizabeth Rojas  
Chapter 13 Standing Trustees

### May 23, 2002

#### **The 2002 Revisions to CCP § 703 & 704 Exemptions**

Speakers: Nancy Zamora, Panel Trustee & Paul Winkler, Debtor's Counsel



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**June 26, 2002*****How to Avoid a 707(b) Motion to Dismiss***

Speakers: Brad Krasnoff, Panel Trustee &  
MaryAnne Wilsbacher, Trial Attorney,  
Office of the U.S. Trustee

**July 9, 2002*****When Does the Use of Paraprofessionals Turn Into the Unauthorized Practice of Law?***

Speakers: Djinna Gochis, Deputy Trial Counsel,  
California State Bar  
Sheila Pistone, Senior Attorney for a  
Chapter 13 Trustee, &  
Ron Maroko, Trial Attorney,  
Office of the U.S. Trustee

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**The Debtor Assistance Project's  
"Consumer Bankruptcy Basics:  
What You Need to Know"**

Public Counsel Law Center is sponsoring this bankruptcy workshop involving the basics of chapters 7 and 13.

Speakers: Todd Roberts & Thomas Ure  
Partners, Roberts & Ure, APC

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**The National Labor Relations Board**

On January 23, 2002, Assistant U.S. Trustee Terri Andersen and Chapter 7 Trustee Nancy Knupfer presented training to Region 21 of the National Labor Relations Board. Terri and Nancy, who were invited to speak by the NLRB's Office of General Counsel, provided an overview of chapters 7, 11, and 13 bankruptcies, discussed investigative tools for uncovering assets, the role of a chapter 7 trustee in no-asset and asset cases, and complaints in bankruptcy fraud. Approximately 45 attorneys and investigators from the NLRB attended.

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**Internal Revenue Service**

On February 27, 2002, Assistant U.S. Trustees Terri Andersen (Los Angeles) and Gary Dyer (Riverside) presented a bankruptcy training

program to members of the IRS Special Procedures Units for the Central and Southern Districts of California. Among the topics discussed were an overview of the bankruptcy system, the role of the U.S. Trustee, bankruptcy fraud, and various tax issues.

On March 19<sup>th</sup>, Special Assistant U.S. Attorney Sandy Klein and Trial Attorney Nancy Shapiro with the U.S. Trustee's Office gave a half-day presentation to approximately 50 IRS collection agents who were part of a Combined Southern California Fraud Group. During the presentation, Nancy outlined the basic components of the entire bankruptcy system. She explained the U.S. Trustee's role, emphasizing civil enforcement. Sandy then explained the elements of several bankruptcy crimes and discussed the mechanics of how the U.S. Attorney prosecutes these crimes.

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**The California State Board of  
Equalization**

Terry Biers, Analyst with the U.S. Trustee Office in Santa Ana, conducted training for California State Board of Equalization (SBE) employees on February 25, 2002. Recently, the SBE created a new position, Bankruptcy Tax Specialist, for each of its field offices. The training consisted of a review of the chapter 11 Notices & Guides and the Interim Statements and Operating Reports.

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**Evans Community Adult School**

On February 6, 2002, Evans Community Adult School held a community outreach program organized by the Los Angeles County Department of Consumer Affairs. Magdalena Reyes-Bordeaux, attorney in charge of the Debtor Assistance Project, Public Counsel, and Christine Cartwright, Fraud Coordinator, Office of the U.S. Trustee, team taught an identity theft program for over 150 students. Students quickly took an interest, even if they had no personal experience with identity theft, when they discovered the crime could ruin their credit for up to ten years. In addition, a number of the U.S. Trustee staff

handed out informational flyers and answered questions for hundreds of individuals in the main hall.

### Orange County Paralegal Association

Nancy Shapiro from the Santa Ana U.S. Trustee's Office spoke on bad faith and substantial abuse bankruptcy filings for the Orange County Paralegal Association on March 12, 2002. Attendees included paralegals working for panel trustees and those in law firms that regularly represent debtors and creditors. The presentation covered the traditional criteria used by the U.S. Trustee to assess cases where it appeared that the chapter 13 plan could be funded as well as the expansive use of § 707(b) for bad faith cases without surplus income.

### Secret Service

Assistant U.S. Trustee Terri Andersen, Special Assistant U.S. Attorney Sandra Klein, and Special Agent, FBI, Norma Ballard were invited by the U.S. Secret Service to conduct a bankruptcy fraud training program. Over 40 Secret Service agents from Los Angeles attended the training on March 12, 2002. The areas discussed included an overview of the bankruptcy system, role of the U.S. Trustee, bankruptcy fraud referrals, investigations, and prosecutions. Special emphasis was placed on credit card bust-out schemes and identity theft.

### Retractions/Changes

#### UST Community Outreach and Education Programs

Although David R. Hagen, attorney with Merritt & Hagen, has been most helpful in contributing to the Office of the U.S. Trustee's luncheon seminars and in many other areas, it was actually David S. Hagen of the Law Offices of David Hagen, who did a great job speaking on the topic of Exempting Pensions and IRAs with Helen Frazer for the February 14, 2002 luncheon seminar held at the UST.

#### Keith Perry O'Neil

Joe Caceras and Marjorie Erikson, Trial Attorneys with the Office of the U.S. Trustee, provided very valuable assistance in the Keith O'Neil Perry bankruptcy fraud case.

## Worthy Website for Fraud Watchers

The State Bar of California

<http://www.calbar.org>

Information and disciplinary records of attorneys admitted to practice in California are included in this website.

## Petition Preparer News

### Los Angeles

In an earlier § 110 motion brought by the U.S. Trustee, **Terry Standifer** agreed to "cease using the name **Legal-Ease Paralegal Services** as it related to bankruptcy matters." She had established the name **L-Ease** and continued to operate under the name Legal Ease Paralegal Services. In addition, the Court found she explained to a debtor the difference between a chapter 7 and a chapter 13 bankruptcy as well as exemption law. The Court found she was engaged in the unauthorized practice of law.



### Riverside

#### **Annette Jaramillo and A-1 Paralegal Centers**

failed to obey the Court's prior order issued July 26, 2001 to disgorge compensation of \$250 and pay a fine of \$500. Two other disgorgement orders issued by different judges were still unpaid as well. Upon application by the U.S. Trustee for a contempt citation, on January 24, 2002, Judge



Barr issued a nationwide injunction preventing her from acting as a bankruptcy petition preparer and sanctioned her \$3,000.

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### **Santa Ana**

Long-time bankruptcy petition preparer **Len D. Faanes**, a target of prior sanction motions brought by the UST, stipulated on March 1, 2002, to an order permanently enjoining him from being a bankruptcy petition preparer in the Central District of California and to any further involvement in bankruptcies. The latest motion is based on Faanes failure to disclose the actual fee charged by him and for other violations of Section 110 of the Bankruptcy Code. At an evidentiary hearing on January 30, 2002, the UST presented evidence that in numerous cases, Faanes had violated provisions of Section 110, had engaged in the unauthorized practice of law, and may have engaged in fraudulent, unfair and/or deceptive conduct. On the issue of Faanes' credibility, evidence was presented that he had made numerous false statements in his own bankruptcy filing currently pending in Los Angeles. At a March 1, 2002 hearing, Faanes stipulated to a permanent injunction, disgorgement of a total of \$550 to various clients, and a \$5,000 monetary sanction that he will not have to pay as long as he abides by the terms of the stipulation.

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Judge Ryan sanctioned and enjoined **Bianca Mendiola** on April 3, 2002 pursuant to a proceeding initiated by the U.S. Trustee. Ms. Mendiola, who did not file a response nor appear at the hearing, used a false Social Security number in a bankruptcy filing. The address used on the petition has been linked to another bankruptcy petition preparer who the Court has sanctioned previously.

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On March 6, 2002, the U.S. Trustee and bankruptcy petition preparers **Luis A. Sabroso, Isabel Sabroso, Luis A. Sabroso II, and Martha Jimenez**, agreed to an order permanently enjoining them from serving as bankruptcy petition preparers in the Central District of California. Luis Sabroso II ("Sabroso II") also agreed to a fine of \$1,500.

Respondents, none of whom are attorneys, did business through the Law Center of Luis A. Sabroso. The first contact the U.S. Trustee's Office had with Sabroso II was in 1999 when he was sanctioned for using a fabricated name and Social Security number as bankruptcy petition preparer in a chapter 7 filing. The U.S. Trustee filed an adversary proceeding against Sabroso II and subsequently settled with him.

In September 2001, Sabroso II was sanctioned and enjoined for having listed his address for several debtors in order to circumvent venue rules. In December 2001, Sabroso II's photo was used at a meeting of creditors to establish that he was still filing bankruptcies in violation of the prior order.

The U.S. Trustee filed an application for an Order to Show Cause (OSC) as to why Sabroso II should not be held in civil contempt. Sabroso was personally served with the OSC and appeared on February 12, 2002, claiming that he did not know about the prior order. Facing additional fines and certification to the District Court for further contempt proceedings, Sabroso detailed the involvement of his associates at the Law Center of Luis A. Sabroso. Accordingly, the U.S. Trustee prepared a stipulation that was executed by all the parties on March 6, 2002 which Judge Riddle approved. On March 11, 2002, Sabroso paid the \$1,500 sanction.

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**Mary Tran** prepared and filed her first two chapter 7 bankruptcy cases as a petition preparer during January 2002. The two filings were deficient and contained many obvious errors including an incorrect Social Security number and name for herself. In addition, she used the word "legal" in advertising. The UST filed motions under FRBP 2004 in both cases which resulted in motions to dismiss. The UST initially sought disgorgement of \$100 and sanctions totaling \$2,500. As a result of Ms. Tran's voluntary disgorgement of the fees she received, her remorse, and her cooperation with the UST, the sanction request was reduced to \$500, which Ms. Tran did not oppose. Bankruptcy Judge Alberts approved the sanction on April 3, 2002.

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## TRUSTEE PROFILE

### Profile of Edwina E. Dowell

*By Wendy Carole Sadovnick*

Edwina Dowell is so enthusiastic when discussing her role as Chapter 13 Trustee in Los Angeles that one would never know she is a 10-year veteran with the UST Program. The road leading her to this position had some interesting turns along the way.

Although modern dance was her passion while growing up in Michigan, Edwina's parents steered her toward more academic pursuits. Studying in England during college broadened her horizons. Her friends at the University of Michigan helped shape her decision to attend law school.

During her last year at the University of Michigan Law School, Edwina began exploring the job market for post graduate employment opportunities. Judge Edwards, her professor and now a Judge on the U.S. Court of Appeals, District of Columbia Circuit, urged her to accept a job offer with a D.C. public interest firm rather than a position being offered at home in Detroit. He reasoned that Washington D.C. would offer immeasurably more opportunities, and what could be more exciting than starting a career in the nation's capitol?

Edwina's first job after law school was as a staff attorney with The Citizens Communications Center, which represented the public's interest before the FCC and Congress. Her work at Citizens brought her to the attention of the Chairman of the Telecommunications Subcommittee in the U.S. House of Representatives who hired her in August 1977 as Staff Counsel for the Subcommittee. She seized the opportunity to help shape telecommunications policy and to draft legislation for the subcommittee, which at that time included Al Gore. Most notably, Edwina was part of the staff that commenced the process which led to the breakup of AT&T. While working on Capitol Hill, she met Rene Anslemo, then President of the Spanish International Network, the predecessor of Univision Inc. Rene,

a pioneer and visionary, recognized back in the early 60's that the ever increasing Spanish-speaking populace of the United States offered a vast and lucrative untapped market for the programming he was producing in Mexico. Edwina accepted Rene's job offer and left her government job for the private sector. In May 1982, she moved to New York City to serve as General Counsel for Spanish International Network.

In 1987, the NY office, as well as Edwina, moved to Los Angeles. However, when the company decided to relocate headquarters to Mexico City in 1991, Edwina knew this job had come to its natural end. Her long-distance romance was already stretched as far as it could go, since her significant other resided in Atlanta. It was time to look for another job.

Edwina found the UST chapter 13 trustee job offering in the newspaper. Although unfamiliar with bankruptcy law, Edwina's experience in the public and government sectors, and her facility with legislative material, all seemed to bode well for her. Edwina obtained the job and, through the early days, Nancy Curry helped her immeasurably, for which Edwina remains grateful to this day.

The diversity of people, problems, and wide range of legal issues reaching many specialized areas of law continues to peak Edwina's interest. Her office employs twenty people and Edwina is lavish in praising their efforts as a team. She recognizes the contributions of her senior staff attorney Sheila Pistone, controller Cheryl Cook, and her claims administrator Nancy Arce. The recently- appointed chapter 13 trustee in Riverside, Rod Danielson, is an alumnus of Edwina's office.

Many challenges surround chapter 13 trustees, and, for Edwina, these include balancing the demands on her time and the management of personnel. She must be responsive to the Clerk of the Court, the UST, judges, debtors, and attorneys while continuing to motivate her staff and colleagues to approach each case and issue with the same excitement and eagerness she brings to the office.

"Coffee With The Trustee," is an open forum at Edwina's office. This breakfast, which is held a few times a year, is open to all attorneys working in chapter 13, has no specific agenda and attendees are welcome to ask questions. With so many attorneys now practicing bankruptcy law, Edwina wanted to provide a forum to discuss local bankruptcy rules and office procedures, to introduce her staff, and to generally provide education in an easygoing atmosphere focusing on the ins and outs of chapter 13 practice. This initiative has proven to be a huge success.

In 1997, Edwina married Chandler L. Cutts, her long-distance partner, and is now the proud stepmom of a son in junior high school and a daughter at Tuskegee University. Nowadays, her husband's work as a Transportation Engineer is a little closer to home, as he is based at the San Francisco International Airport. In addition to her involvement with her family, and along with her continued love of dance, Edwina's favorite pastimes outside of the office are hiking and the great outdoors.

Region 16 is proud to have in Edwina Dowell a dedicated trustee who, finding herself in a challenging position, continues to push herself to excel.

### **"Dear Sherlock:"**

(A column for fraud-fighters seeking advice)

I am a chapter 7 trustee and just finished reviewing a bankruptcy petition for an upcoming 341(a) meeting that I will be conducting. A review of Schedule F indicates that the debtors (husband and wife) amassed over \$450,000 in credit card debt within the year prior to filing bankruptcy. In addition, debtors report that their income over the last two years did not exceed \$24,000 annually. The debtors' Schedule A reflects no real property and Schedule B lists personal property valued at \$4,000. What kind of questioning should take place at the 341(a) meeting by me? Are there any potential crimes that may have been committed, and, if so, what?

### *Baffled Trustee*

#### **Dear Baffled:**

Initially, your 341(a) questions should focus on whether the case involves a credit card "bust out" or other type of substantial abuse.

Did the debtors accumulate consumer debt in anticipation of filing for bankruptcy? Did the debtors use their credit cards to purchase luxury goods and live a high lifestyle? Did the debtors take vacations, buy expensive jewelry, or lease expensive vehicles? Did the debtors incur substantial cash advances?



Was any portion of the debt used for gambling?

A key question is for what purpose was the money used? What specifically was purchased? Assuming large purchases were made, ask the debtors why schedule B lists personal property valued at only \$4,000. Ask whether the debtors still have possession of any items purchased. If they no longer have the purchases, who has them? Did they give these items away or sell them? To whom?

You should also inquire as to whether the debtors tried to make an honest effort to repay these obligations before filing bankruptcy. How many payments were made on each credit card? Were more than the minimum payments made? How were payments made? Since the debtors earn less than \$24,000 annually, did the debtors use cash advances obtained from one credit card to pay off debts incurred on other credit cards?

Additionally, you should ask the debtors about any businesses that they might own, might have started, or might have "invested in" within six years of the filing. Is the business (or businesses) incorporated or a form of "dba?" Did the debtors list the business or investment on Schedule B? Assuming there is an undisclosed business that the debtors forgot to list, you should ask the debtors to amend their petition to list the business and to assign a monetary value to it. The debtors may also need to amend their Statement of

Financial Affairs, Question No. 18, which inquires about a debtor's business including self employment over the past six years.

Have the debtors experienced any serious illness, calamity, disability, or unemployment over the past two or three years? Did either of the debtors spend time in the hospital?

Before concluding the 341(a) meeting, ask the debtors to provide you copies of their wage and earning statements (so that you can verify their income), and ask them for copies of their credit card statements for the past year.

After that initial 341(a) meeting and before the continued 341(a), you may have enough information to send a credit card abuse referral to the U.S. Trustee's Office, Fraud Unit, for further action. In your referral, please summarize the debtors' answers to the above questions and attach a copy of the petition, schedules, and statement of financial affairs. The U.S. Trustee has only 60 days after the first date set of the 341(a) meeting within which to bring a § 707(b) motion to dismiss for substantial abuse.

Assuming that the debtors provide you with their wage and earning statements and some documentation concerning their credit card statements, you can conclude the 341(a) meeting. Please forward copies of all documents that you receive from the debtors to the U.S. Trustee's Office as a supplement to your prior referral.

Continuing with the second question, the debtors may have committed three crimes: concealed assets under 18 U.S.C. §§ 152 (1) & (3), false statements, under 18 U.S.C. §§ 152 (2) & (3), and an artifice to defraud under 18 U.S.C. § 157. Look at bankruptcy Schedules A, Real Property, and B, Personal Property. If the debtors have no real property and very little personal property to show for this amount of debt incurred, what happened to the \$450,000? Perhaps the debtors are concealing assets. Also, if assets are not listed, the debtors may have made false statements. But how do you prove intent? Check

Schedule I, Income. Is the income listed fairly low? The debtors then may have had no intention of paying this debt. If so, consider the crime of committing an artifice to defraud for intentionally accumulating this large amount of debt with no plan for paying it off.

*Sherlock*

Please e-mail your inquiries regarding fraud and abuse issues to Sherlock, c/o:  
[www.Maureen.Tighe3@usdoj.gov](mailto:www.Maureen.Tighe3@usdoj.gov).